UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,320	03/18/2004	Edward R. Rhoads	ITL.0308C1US (P7989C)	5772

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2167	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

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10/803,320</td><td>Applicant(s)
RHOADS ET AL.</td></tr>
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Susan F. Rayyan</td><td>Art Unit
2167</td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>04 October 2007</u>.

2a) ☒ This action is FINAL.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>40-42 and 44-50</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>40-42 and 44-50</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Response to Arguments

1. Applicant's amendment, filed July 12, 2007, has been fully considered. Upon updated search and further consideration a new ground(s) of rejection is made in view of US Patent 6,754,855 issued to Karl L. Denninghoff et al ("Denninghoff"). The Final Office Action has been withdrawn and new Non-Final action follows.

DETAILED ACTION

2. Claims 40-42, 44-50 are currently pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,490,260 issued to William D. Miller et al. (" Miller") in view of US Patent Number 5, 337, 275 issued to Richard P. Garner ("Garner") in view of US Patent 6,754,855 issued to Karl L. Denninghoff et al ("Denninghoff").

Regarding independent claim 40, Miller teaches a processor, a flash memory coupled to said processor, said flash memory to store a primary operating system, compressed file data, and information for use in locating said file data in said flash memory (See col. 3, lines 58- col. 4, lines 17, wherein Miller et al. teaches the claimed limitation of locating the file on semiconductor memory with stored addresses)

Miller does not explicitly teach flash memory. Garner does teach flash memory and allocation table (column 1, lines 10-16, flash memory and) to retain formation when power is turned off). It would have been obvious for a person with ordinary skill in the art at the time the invention was made to implement the flash memory in the method of Miller et al. (column 1, lines 40-50 as flash memory retains information when power is turned off).

Miller in view of Garner do not explicitly teach a backup operating for use when the primary operating system fails or needs updating. Denninghoff does teach this limitation (at column2, lines 54-67 as first operating system and a second operating system operating as a backup operating system) to improve the operability of computer appliances and further enhance the user experiences. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Miller in view of Garner with a backup operating for use when the primary operating system fails or needs updating to improve the operability of computer appliances and further enhance the user experiences as described by Denninghoff (column 2, lines 22-24).

Claims 41-42, 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. in view of Garner in view of in view Denninghoff, as applied to claim 40 above, and further in view of US Patent Number 6,407,949 issued to Sanjay Jha et al ("Jha").

Regarding claim 41, same as claim arguments above and Miller in view of Garner in view of Denninghoff do not explicitly teach wherein the system is a cellular telephone. Jha does teach this limitation at column 1, line 31 to improve access time and reduce power consumption. It would have been obvious to one of ordinary skill in the at the time of the invention to modify the system to include a cellular telephone system with flash memory to improve access time and reduce power consumption (Abstract).

Regarding claim 42, Miller et al. teaches the data stored in a compressed format (See col. 3, lines 58- col. 4, lines 17). It is inherent that it includes basic I/O data.

Regarding claims 44, 45 Miller et al. teaches a format for storing the data by CPU as described in col. 7, lines 58-61. Therefore it is inherent that the decompressed data is formatted in format compatible by the OS as claimed.

Regarding claim 46 same as claim arguments above and Garner teaches:

wherein said flash memory stores an allocation table to indicate the length of entries

stored in said flash memory and the number of entries in said allocation table

(column 6, lines 62-65, the position of the sectors is stored with a logical sector number

in the lookup table).

Regarding claim 47, same as claim arguments above and Miller et al. teaches the

claimed invention of wherein said file data stored in compressed form on ... memory is

formed into compressed blocks of unequal length is described in col. 3, lines 27-45,

wherein Miller et al. teaches the data blocks of various size to store compressed data.

Regarding claim 48, same as claim arguments above and Garner teaches including

data for more than one file system stored on said flash memory (the flash memory as

described in col. 1, lines 10-16).

Regarding claim 49, Miller et al. teach the loader and kernel stored on memory

as described in col. 4, lines 10-11.

Regarding claim 50 Miller et al. teaches the claimed invention as described above

with respect to claims 40- 41. However, Miller et al. does not teach a network

connection to download additional data. It is a common knowledge in the art to

implement a network connection to download data from the remote site. Therefore it

would have been obvious for a person with ordinary skill in the art at the time the

invention was made to implement network connection to the system of Miller et al.

because it aids in retrieving the data and downloading the data from remote location.

Response to Arguments

4.   Applicant's arguments filed October 4, 2007 have been fully considered but they

are not persuasive.

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Miller teaches a

processor, a flash memory coupled to said processor, said flash memory to store a

primary operating system, compressed file data, and information for use in locating said

file data in said flash memory (See col. 3, lines 58- col. 4, lines 17, wherein Miller et al.

teaches the claimed limitation of locating the file on semiconductor memory with stored

addresses.). Miller does not explicitly teach flash memory. Garner does teach flash

memory (column 1, lines 10-16, flash memory) to retain formation when power is turned

off). It would have been obvious for a person with ordinary skill in the art at the time the

invention was made to implement the flash memory in the method of Miller et al.

(column 1, lines 40-50 as flash memory retains information when power is turned off).

Miller in view of Garner do not explicitly teach a backup operating for use when the

primary operating system fails or needs updating. Denninghoff does teach this limitation

(at column2, lines 54-67 as first operating system and a second operating system

operating as a backup operating system) to improve the operability of computer

appliances and further enhance the user experiences. It would have been obvious to a

person of ordinary skill in the art at the time the invention was made to modify Miller in

view of Garner with a backup operating for use when the primary operating system fails

or needs updating to improve the operability of computer appliances and further

enhance the user experiences as described by Denninghoff (column 2, lines 22-24).

Applicant indicates wherein said flash memory stores an allocation table to

indicate the length of entries stored in said flash memory and the number of entries

in said allocation table is plainly taught by Garner.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Contact Information

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susan F. Rayyan whose telephone number is 571-272-

1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Rayyan

December 18, 2007

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
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